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IMPORTATION OF ARMED MEN FROM OTHER STATES TO PROTECT PROPERTY.

TOWNSEND PRIZE ORATION.

The history of the Monongahela valley is written in blood. In the French and Indian war Braddock and Washington marched through this romantic region, fell into an ambush in the tangled thickets, and became "a living target to an unseen foe." Forty years afterwards the "Whiskey Insurgents" made their rendezvous among its mountains in defiant but hopeless resistance to federal taxation. It was lighted by the fierce glare of the fires kindled by the Pittsburg riots of 1877, and heard the roll of musketry that quelled the turbulent and destructive mob. In the summer of 1892 it was the scene of a conflict more portentous than any that had marked its history. That strange battle at Homestead between the organized workmen and the Pinkerton contingent attracted the anxious attention of the civilized world.

Some of the specially dramatic and significant incidents of the strike, the bloody encounter, and the final outcome present solemn questions for the consideration of the statesman and philosopher. Prominent among those questions is that of the legality and expediency of importing armed men from one State to protect property in another,—or what is known in modern parlance as "Pinkertonism." Politicians have won fleeting applause in attempts to turn it to party advantage; worthless agitators have used it to arouse the spirit of anarchy; ambitious statesmen have seized it as a fruitful subject for their inventive genius in legislation by proposing laws against the importation of armed men, or providing for compulsory arbitration between capital and labor. But the question remains unsettled, and is worthy of careful consideration in these stirring, progressive times when social and industrial strife disturbs the peace of the community, and threatens even wider disaster in the immediate future. May it not be a weapon capital has a legal and moral right to use in this struggle which has already added to our language the names of strange implements of warfare,—names freighted with arson, murder, and revolution? When labor resorts to the strike, the "boycott," the fire-brand,

and the dynamite bomb, is it in the least surprising that capital should meet the situation with means, at once novel in idea, legal in employment, and justified by the emergency?

In the long and bitter conflict between workmen and employers, while labor has resorted to means often revolutionary and sometimes treasonable, capital has very largely contented itself with methods always recognized as legitimate,—the civil power of the county, the military force of the State, and the army of the federal government. No one questions, for a moment, that in most cases these forces amply protect the interests of capital. But there are conditions in our great industrial centers which these mighty agencies cannot promptly and adequately meet. Labor orders strikes, drives "non-union" men away, takes possession of the property of the employer, and holds it with a force so great, so well-armed and thoroughly organized, that the sheriff is powerless to enforce the law. To assist him the sheriff must call a *posse comitatus* which, in sympathy, at least, is a party to the crime, and which in strength of numbers can but feebly cope with the concentrated strength of the "trades-union." By the unwritten law of public opinion the governor of a State is forbidden to call into action the National Guard until the power of the county is exhausted. Moreover, political subserviency, too often, makes cowards of our chief magistrates. Thus, between the demands for conservative action, and the dictates of a tender political conscience, the militia may not reach the scene of trouble until an infuriated mob has done irreparable injury. For this loss where is the compensation? It does not answer the question to reply that the civil power is responsible for property destroyed by rioters. The right to sue a municipal corporation rests upon statute, and such provisions are not found in the laws of every commonwealth. Where such remedy is provided, compensation can be awarded only for proximate damages. Remote contingencies cannot be reached. Present and future contracts in the market may be placed elsewhere, stocks of the corporation may drop on 'change, and time, which, in the fierce competitions of this busy age, is more than money, may be lost, in value beyond the power of any human tribunal to determine. For these vital consequences law furnishes no remuneration. All previous methods of adjustment can but inadequately meet the changed conditions of to-day when large numbers of men are concentrated in mills, and mines, and railway terminals, and when manufacturing plants costing millions are established all over the land by great combinations of capital. It is men massed on one side with their tremendous power, and

capital massed on the other with its marvelous resources. It is a condition in which a strike becomes a war,—a “boycott,” a commercial blockade,—the throwing of a bomb, wholesale murder,—the application of a fire brand, an act destructive of the sacred rights of property, and subversive of government itself. For such a crisis the “law’s delays,” the feeble processes of the civil power, the slow movements of the National Guard do not, and cannot, furnish sufficient protection. Surely, capital would not employ private guards if the civil and military powers filled the demands. The employers must bear the expense of the watchmen, while that of the public guards is borne by the county or the commonwealth, and the military force is seldom resisted, for behind it, in the last appeal, is the whole power of the federal government. It is but the failure of old and conservative methods to meet new and radical conditions that compels a resort to private protection.

The cry is raised that “Pinkertonism” is un-American. Labor agitators, who see nothing illegal in using violence, arson, and murder to assert the power of the trades-union, declare that the importation of armed men is unconstitutional. Over against this bold assertion I place the conservative opinions of able jurists who contend that there is nothing in the employment of armed watchmen, even on a large scale, that violates the federal constitution. In the absence of State statutes expressly prohibiting their importation, it is perfectly legal to bring any number of men from one State to protect property in another. Great constitutional lawyers even question the validity of State statutes forbidding their importation. They are not a body of men united in carrying arms for an unlawful purpose, or with hostility to any form of government. On the contrary they are united and armed to uphold law and order. They are combined in defense of that great principle, dear to every Anglo-Saxon heart,—the right to own and protect property, antagonizing the Rob Roy idea that “might makes right,”

“That they shall take who have the power,
And they shall keep who can.”

Some things in regard to the rights of property have been settled, once and forever. “A man’s home is his castle,” be it the lowly hut of the poor workman, or the luxurious abode of the millionaire. Every man’s house, if mortgage-free and judgment-clear, is all his own, and all his own are the acres he holds in fee, his mills with whirling wheels, his forges with ponderous hammers, his factories with flying spindles and busy looms, his furnaces with their blazing fires and their molten wealth. To possess and protect all these is the birth-right of every individual Amer-

ican citizen. Shall we deny the same privilege to that "invisible, intangible, and immortal" citizen known to the law by the name of a corporation? Capitalists who have invested great fortunes in manufacturing concerns have a right to operate their mills. Corporations that establish great telegraph lines or extensive railway systems, have valuable franchises involved, but, above and beyond the rights of the company, the public, itself, has an interest too vast to permit a body of men, on any pretext whatever, to rob it of its means of communication for a single hour. The public interests in these great inter-State enterprises are favored wards of the courts, protected by the strong arm of injunctions, and the shield of the laws against conspiracies. But the purely private corporation and the individual capitalist are often confronted by emergencies for which the law furnishes no effectual means of defense, and must meet the situation with armed watchmen in numbers large enough to protect the property. If in the discharge of their duty the guards are killed, and the property torn from their possession, the law brands the killing as murder, and makes it the duty of the State to restore the property to its owners though it take every company, regiment, and brigade at the disposal of the Governor. These are simple principles of law, whose enforcement, now and then, as at Homestead, Coeur d'Alene, and Buffalo, teaches wholesome lessons to that lawless spirit that burns buildings, wrecks trains, and imperils human lives in the mad assertion of rights that exist

"Only in the fiction of an idle fancy,—
The illusion of a troubled dream."

But we are told that the employment of armed watchmen is unnecessary because arbitration is the panacea for all these troubles. Yet reason teaches that there are crises in this industrial conflict that arbitration can never touch, because neither capital nor labor can be coerced. A State may frame a statute making submission compulsory, and giving judgment by default, but how shall the award be enforced if it provides that the relations of employer and employed must be sustained? Men cannot be compelled to work, especially in the absence of a contract. Manufacturers cannot be forced to operate their mills if they find no profit in the business. A court of arbitration for the decision of the vexed question of wages, which underlies this struggle between capital and labor, would be a strange tribunal indeed. Neither party would stand at its bar for having broken a law, but each would be there pleading an inalienable right,—the one to work for the wage he asks, the other to pay the price he will. There would be no

adjudged principles to apply, no fixed code of laws to interpret, and the decision could be enforced by no compulsion except the moral compulsion of public opinion. The interests involved are too complex and diverse for such a tribunal to adjust. When individual stands opposed to individual, courts may determine their differences, but, in this age, when individuals have vanished, when class wars with class, when corporation struggles with corporation, when organized labor clashes with organized capital, what brain can conceive, what power can establish a court whose process can reach all parties in interest, or whose judgment can be satisfied in just and ample execution?

Then, if arbitration fails as a remedy, if the civil and military powers are inadequate to protect, a crisis is presented in which capital must surrender unconditionally to the "trades-union," or resort to the peculiar, yet altogether legal, means of protecting its property with armed watchmen of its own. Such a defense is only a temporary expedient. No thoughtful man contends that this industrial warfare will be terminated by such simple methods. "Pinkertonism" is by no means the last appeal,—the final solution. The conflict will go on in agitation and debate. The next quarter of a century will be one of revolution, and will test our institutions as they have never been tested before. The great problem between man and master, begun among the teeming populations of Europe, oppressed by unequal laws, is to be solved at last by the American spirit of fair-play. Here lies the hope of the future. We give a patient hearing to the theorist of every school, the exponent of every doctrine, but to lawlessness and oppression alike, we proclaim an uncompromising "Thus far shalt thou go." We declare that the accursed "boycott" has no place on this side the Atlantic, that the foul seed of Russian Nihilism shall not be sown in the pure soil of America, that there is no room in the free air of this Republic for the red flag of Anarchy. With equal emphasis we demand that the tyranny of capital and monopoly, and the oppression of gigantic trusts, created neither by law nor custom, nor necessity, and which "corner" the very bread of our people, shall not stand beneath the protecting folds of the "stars and stripes." Capital and labor both are free in this land. We give to the son of wealth and the son of toil,—to the man of millions and the man of muscle,—equal rights of suffrage. In return we demand that, one by one, their conflicting interests shall be submitted to the peaceful arbitrament of the ballot, in a forum where the expressed will of the majority must forever remain substantial right and unquestioned law.

Wilfred M. Peck.